

JOURNAL OF THE HOUSE

EIGHTY-EIGHTH SESSION

NINETEENTH DAY

STATE OF SOUTH DAKOTA
House of Representatives, Pierre
Wednesday, February 6, 2013

The House convened at 2:00 p.m., pursuant to adjournment, the Speaker presiding.

The prayer was offered by the Chaplain, Pastor John Fette, followed by the Pledge of Allegiance led by House pages Thomas Nealon and Jesse Schuster.

Roll Call: All members present.

APPROVAL OF THE JOURNAL

MR. SPEAKER:

The Committee on Legislative Procedure respectfully reports that the Chief Clerk of the House has had under consideration the House Journal of the eighteenth day.

All errors, typographical or otherwise, are duly marked in the temporary journal for correction.

And we hereby move the adoption of the report.

Respectfully submitted,
Brian G. Gosch, Chair

Which motion prevailed.

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on State Affairs respectfully reports that it has had under consideration HB 1067 and 1084 and returns the same with the recommendation that said bills do pass.

Also MR. SPEAKER:

The Committee on State Affairs respectfully reports that it has had under consideration HB 1223 which was tabled.

Also MR. SPEAKER:

The Committee on State Affairs respectfully reports that it has had under consideration HB 1121 and 1221 which were deferred to the 41st Legislative Day.

Respectfully submitted,
David Lust, Chair

Also MR. SPEAKER:

The Committee on Education respectfully reports that it has had under consideration HB 1166, which was reconsidered, and returns the same with the recommendation that said bill be amended as follows:

1166ca

On page 1, line 9, of the printed bill, delete everything after "each" .

On page 1, delete lines 10 to 12, inclusive, and insert "teacher employed in a school district included in the ten percent. Each full-time teacher shall receive the full bonus and each part-time teacher shall receive a partial bonus based upon the percentage of time worked.".

And that as so amended said bill be referred to the Committee on Appropriations.

Also MR. SPEAKER:

The Committee on Education respectfully reports that it has had under consideration HB 1172 and returns the same with the recommendation that said bill be amended as follows:

1 1172ca

2 On page 1 of the printed bill, delete lines 4 to 8, inclusive.

3 On page 1, line 9, delete "secondary career and technical" and insert "general".

4 On page 1, line 10, delete "enhancement".

5 1172cta

6 On page 1, line 1, of the printed bill, delete "money" and insert "one-time funds".

7 And that as so amended said bill be referred to the Committee on Appropriations.

8 Also MR. SPEAKER:

9 The Committee on Education respectfully reports that it has had under consideration
10 HB 1245 which was tabled.

11 Respectfully submitted,
12 Jacqueline Sly, Chair

13 Also MR. SPEAKER:

14 The Committee on Judiciary respectfully reports that it has had under consideration
15 HB 1151 and returns the same with the recommendation that said bill be amended as follows:

16 1151ra

17 On the printed bill, delete everything after the enacting clause and insert:

18 " Section 1. That § 20-9-4.1 be amended to read as follows:

19 20-9-4.1. No peace officer, conservation officer, member of any fire department, police
20 department and their first aid, rescue or emergency squad, or any citizen acting as such as a
21 volunteer, or any other person is liable for any civil damages as a result of their acts of
22 commission or omission arising out of and in the course of their rendering in good faith, any
23 emergency care and services during an emergency which is in their judgment indicated and
24 necessary at the time. Such relief from liability for civil damages ~~shall extend~~ extends to the
25 operation of any motor vehicle in connection with any such care or services.

26 Nothing in this section grants any ~~such~~ relief to any person causing any damage by his
27 willful, wanton or reckless act of commission or omission.

1 Section 2. That chapter 20-9 be amended by adding thereto a NEW SECTION to read as
2 follows:

3 Any action for recovery of damages for personal injury or death caused by the negligence
4 of directors and officers of a nonprofit fire, ambulance, or search and rescue entity organized
5 or incorporated in the State of South Dakota, or its employees and volunteers authorized by the
6 nonprofit organization at the time of the alleged negligent act shall be commenced within two
7 years from the occurrence of the accident causing the injury or death. This section applies
8 whether such person is classified, unclassified, licensed, certified, permanent, temporary,
9 compensated, or not compensated.

10 Section 3. That chapter 20-9 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 A nonprofit fire, ambulance, or search and rescue entity organized or incorporated in the
13 State of South Dakota and its volunteer officers and directors are immune from civil liability
14 for any action brought in any court in this state on the basis of any act or omission resulting in
15 damage or injury if:

- 16 (1) The individual was acting in good faith and within the scope of such individual's
17 official functions and duties for the nonprofit organization or corporation; and
- 18 (2) The damage or injury was not caused by gross negligence or willful and wanton
19 misconduct by such individual. "

20 And that as so amended said bill do pass.

21 Also MR. SPEAKER:

22 The Committee on Judiciary respectfully reports that it has had under consideration
23 HB 1171 and returns the same with the recommendation that said bill be amended as follows:

24 1171ja

25 On page 2 of the printed bill, delete lines 5 to 9, inclusive.

26 And that as so amended said bill do pass.

27 Also MR. SPEAKER:

28 The Committee on Judiciary respectfully reports that it has had under consideration
29 HB 1177, 1219, and 1232 which were tabled.

1 Also MR. SPEAKER:

2 The Committee on Judiciary respectfully reports that it has had under consideration
3 HB 1216 which was deferred to the 41st Legislative Day.

4 Respectfully submitted,
5 Brian G. Gosch, Chair

6 Also MR. SPEAKER:

7 The Committee on Commerce and Energy respectfully reports that it has had under
8 consideration HB 1240 which was tabled.

9 Also MR. SPEAKER:

10 The Committee on Commerce and Energy respectfully reports that it has had under
11 consideration HB 1175, 1182, and 1207 which were deferred to the 41st Legislative Day.

12 Respectfully submitted,
13 Roger D. Solum, Chair

14 **MESSAGES FROM THE SENATE**

15 MR. SPEAKER:

16 I have the honor to return herewith HB 1024 and 1025 which have passed the Senate
17 without change.

18 Also MR. SPEAKER:

19 I have the honor to transmit herewith SB 115, 119, 147, 174, 200, and 239 which have
20 passed the Senate and your favorable consideration is respectfully requested.

21 Respectfully,
22 Jeannette Schipper, Secretary

23 **MOTIONS AND RESOLUTIONS**

24 HCR 1004: A CONCURRENT RESOLUTION, Expressing support for the 2013 South
25 Dakota coordinated plan for natural resources conservation.

1 Rep. Hoffman moved that HCR 1004 as found on page 302 of the House Journal be
2 adopted.

3 The question being on Rep. Hoffman's motion that HCR 1004 be adopted.

4 And the roll being called:

5 Yeas 69, Nays 1, Excused 0, Absent 0

6 Yeas:

7 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
8 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna);
9 Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
10 (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson;
11 Miller; Munsterman; Nelson; Novstrup (David); Otten (Herman); Parsley; Peterson; Qualm;
12 Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish; Schrempp; Sly;
13 Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra; Wick; Wink;
14 Wismer; Speaker Gosch

15 Nays:

16 Olson (Betty)

17 So the motion having received an affirmative vote of a majority of the members-elect, the
18 Speaker declared the motion carried and HCR 1004 was adopted.

19 Rep. Wink moved that HCR 1005 be deferred to Wednesday, February 13, the
20 22nd Legislative day.

21 Which motion prevailed.

22 Yesterday, Rep. Schoenfish announced his intention to reconsider the vote by which
23 HB 1239 lost.

24 Rep. Schoenfish moved that the House do now reconsider the vote by which HB 1239 lost.

25 The question being on Rep. Schoenfish's motion to reconsider the vote by which HB 1239
26 lost.

27 And the roll being called:

28 Yeas 62, Nays 8, Excused 0, Absent 0

1 Yeas:

2 Bartling; Bolin; Cammack; Campbell; Craig; Cronin; Duvall; Ecklund; Erickson; Feickert;
3 Feinstein; Gibson; Greenfield; Haggar (Jenna); Hajek; Hansen; Hawks; Hawley; Heinemann
4 (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp;
5 Latterell; Lust; Magstadt; May; Mickelson; Miller; Munsterman; Nelson; Olson (Betty); Otten
6 (Herman); Parsley; Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Schaefer;
7 Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Werner;
8 Westra; Wink; Wismer; Speaker Gosch

9 Nays:

10 Carson; Conzet; Dryden; Haggar (Don); Novstrup (David); Russell; Verchio; Wick

11 So the motion having received an affirmative vote of a majority of the members-elect, the
12 Speaker declared the motion carried and HB 1239 was up for reconsideration and final passage.

13 Rep. Schoenfish moved that HB 1239 be placed to follow HB 1168 on today's calendar.

14 Which motion prevailed.

15 **CONSIDERATION OF REPORTS OF COMMITTEES**

16 Rep. Lust moved that the reports of the Standing Committees on

17 Agriculture and Natural Resources on HB 1002 as found on page 298 of the House Journal;
18 also

19 Agriculture and Natural Resources on HB 1167 as found on page 299 of the House Journal;
20 also

21 Local Government on HB 1158 as found on page 300 of the House Journal; also

22 Health and Human Services on HB 1233 as found on page 301 of the House Journal be
23 adopted.

24 Which motion prevailed.

1 **FIRST READING OF SENATE BILLS AND JOINT RESOLUTIONS**

2 SB 115: FOR AN ACT ENTITLED, An Act to increase the commercial fertilizer
3 inspection fee for purposes of fertilizer-related research and to create the Nutrient Research
4 Education Council to promote such research.

5 Was read the first time and referred to the Committee on Agriculture and Natural
6 Resources.

7 SB 119: FOR AN ACT ENTITLED, An Act to ensure freedom of media coverage of high
8 school activities.

9 Was read the first time and referred to the Committee on Commerce and Energy.

10 SB 147: FOR AN ACT ENTITLED, An Act to revise certain provisions relating to
11 domestic abuse and protection orders.

12 Was read the first time and referred to the Committee on Judiciary.

13 SB 174: FOR AN ACT ENTITLED, An Act to provide that an out-of-country foreign
14 judgment need not be recognized if the cause of action resulted in a defamation judgment
15 obtained in a jurisdiction outside the United States, unless a court in this state first determines
16 that the defamation law applied in the foreign court's adjudication provided at least as much
17 protection for freedom of speech and press as would be provided in this state by enacting the
18 free speech defense Act.

19 Was read the first time and referred to the Committee on Judiciary.

20 SB 200: FOR AN ACT ENTITLED, An Act to revise certain provisions concerning
21 campaign finance.

22 Was read the first time and referred to the Committee on State Affairs.

23 SB 239: FOR AN ACT ENTITLED, An Act to repeal the state's membership in the
24 multistate tax commission.

25 Was read the first time and referred to the Committee on Appropriations.

1 **SECOND READING OF CONSENT CALENDAR ITEMS**

2 Rep. Lust requested that HB 1083 be removed from the Consent Calendar.

3 Which request was granted and HB 1083 was placed on the calendar of Monday,
4 February 11, the 21st legislative day.

5 SB 48: FOR AN ACT ENTITLED, An Act to authorize the Transportation Commission
6 to establish rules governing the allowance, placement, and maintenance of newspaper vending
7 machines at interstate rest areas.

8 Was read the second time.

9 The question being "Shall SB 48 pass?"

10 And the roll being called:

11 Yeas 70, Nays 0, Excused 0, Absent 0

12 Yeas:

13 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
14 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna);
15 Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
16 (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson;
17 Miller; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley;
18 Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
19 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
20 Wick; Wink; Wismer; Speaker Gosch

21 So the bill having received an affirmative vote of a majority of the members-elect, the
22 Speaker declared the bill passed and the title was agreed to.

23 SB 49: FOR AN ACT ENTITLED, An Act to establish the fee charged by registers of
24 deeds for documents filed by the Department of Transportation disposing of highway right-of-
25 way that is no longer needed for highway purposes.

26 Was read the second time.

27 The question being "Shall SB 49 pass?"

28 And the roll being called:

29 Yeas 70, Nays 0, Excused 0, Absent 0

1 Yeas:

2 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Cronin; Dryden; Duvall;
3 Ecklund; Erickson; Feickert; Feinstein; Gibson; Greenfield; Haggar (Don); Haggar (Jenna);
4 Hajek; Hansen; Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff
5 (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson;
6 Miller; Munsterman; Nelson; Novstrup (David); Olson (Betty); Otten (Herman); Parsley;
7 Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell; Schaefer; Schoenfish;
8 Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler; Verchio; Werner; Westra;
9 Wick; Wink; Wismer; Speaker Gosch

10 So the bill having received an affirmative vote of a majority of the members-elect, the
11 Speaker declared the bill passed and the title was agreed to.

12 SECOND READING OF HOUSE BILLS AND JOINT RESOLUTIONS

13 HB 1029: FOR AN ACT ENTITLED, An Act to exempt persons hunting mountain lions
14 from the requirement to wear fluorescent orange exterior garments.

15 Was read the second time.

16 The question being "Shall HB 1029 pass?"

17 And the roll being called:

18 Yeas 59, Nays 11, Excused 0, Absent 0

19 Yeas:

20 Bartling; Bolin; Cammack; Campbell; Conzet; Craig; Cronin; Dryden; Duvall; Ecklund;
21 Feickert; Greenfield; Haggar (Don); Haggar (Jenna); Hajek; Hansen; Hawks; Hawley;
22 Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Kaiser; Kopp; Latterell;
23 Lust; Magstadt; May; Mickelson; Miller; Munsterman; Nelson; Novstrup (David); Olson
24 (Betty); Otten (Herman); Parsley; Peterson; Qualm; Ring; Romkema; Rounds; Rozum; Russell;
25 Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tyler; Werner;
26 Westra; Wick; Wink; Speaker Gosch

27 Nays:

28 Carson; Erickson; Feinstein; Gibson; Johns; Killer; Kirschman; Rasmussen; Tulson; Verchio;
29 Wismer

30 So the bill having received an affirmative vote of a majority of the members-elect, the
31 Speaker declared the bill passed and the title was agreed to.

1 HB 1168: FOR AN ACT ENTITLED, An Act to increase certain levies relating to predator
2 control districts.

3 Was read the second time.

4 The question being "Shall HB 1168 pass?"

5 And the roll being called:

6 Yeas 64, Nays 6, Excused 0, Absent 0

7 Yeas:

8 Bartling; Bolin; Cammack; Campbell; Carson; Conzet; Craig; Dryden; Duvall; Ecklund;
9 Erickson; Feickert; Feinstein; Gibson; Greenfield; Hajek; Hawks; Hawley; Heinemann (Leslie);
10 Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns; Kaiser; Killer; Kirschman; Kopp; Latterell;
11 Lust; Magstadt; May; Mickelson; Miller; Munsterman; Novstrup (David); Olson (Betty); Otten
12 (Herman); Parsley; Peterson; Qualm; Rasmussen; Ring; Romkema; Rounds; Rozum; Russell;
13 Schaefer; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele; Stevens; Tulson; Tyler;
14 Verchio; Werner; Westra; Wick; Wink; Wismer

15 Nays:

16 Cronin; Haggard (Don); Haggard (Jenna); Hansen; Nelson; Speaker Gosch

17 So the bill having received an affirmative vote of a two-thirds majority of the members-
18 elect, the Speaker declared the bill passed and the title was agreed to.

19 HB 1239: FOR AN ACT ENTITLED, An Act to authorize school districts to increase
20 certain tax levies for pension and health insurance purposes.

21 Having had its second reading was up for reconsideration and final passage.

22 1239ja

23 Rep. Schoenfish moved that HB 1239 be amended as follows:

24 On page 1, line 8, of the House Taxation Committee engrossed bill, delete "~~thirty~~ forty"
25 and insert "thirty".

26 On page 3, line 2, delete "~~thirty~~ forty" and insert "thirty".

27 Which motion prevailed.

1 The question being "Shall HB 1239 pass as amended?"

2 And the roll being called:

3 Yeas 53, Nays 17, Excused 0, Absent 0

4 Yeas:

5 Bartling; Bolin; Campbell; Craig; Ecklund; Feickert; Feinstein; Gibson; Greenfield; Hansen;
6 Hawks; Hawley; Heinemann (Leslie); Heinert; Hickey; Hoffman; Hunhoff (Bernie); Johns;
7 Kaiser; Killer; Kirschman; Kopp; Latterell; Lust; Magstadt; May; Mickelson; Miller;
8 Munsterman; Nelson; Olson (Betty); Otten (Herman); Parsley; Peterson; Qualm; Rasmussen;
9 Ring; Romkema; Rounds; Rozum; Schoenfish; Schrempp; Sly; Soli; Solum; Stalzer; Steele;
10 Stevens; Tulson; Tyler; Werner; Wismer; Speaker Gosch

11 Nays:

12 Cammack; Carson; Conzet; Cronin; Dryden; Duvall; Erickson; Haggar (Don); Haggar (Jenna);
13 Hajek; Novstrup (David); Russell; Schaefer; Verchio; Westra; Wick; Wink

14 So the bill having received an affirmative vote of a majority of the members-elect, the
15 Speaker declared the bill passed.

16 The question being on the title.

17 1239jta

18 Rep. Schoenfish moved that the title to HB 1239 be amended as follows:

19 On page 1, line 1, of the House Taxation Committee engrossed bill, delete "increase" and
20 insert "use".

21 Which motion prevailed and the title was so amended.

22 **SECOND READING OF SENATE BILLS AND JOINT RESOLUTIONS**

23 Rep. Lust moved that SB 41, 45, and 23 be deferred to Thursday, February 7, the
24 20th legislative day.

25 Which motion prevailed.

26 There being no objection, the House reverted to Order of Business No. 5.

1 **REPORTS OF STANDING COMMITTEES**

2 MR. SPEAKER:

3 The Committee on Legislative Procedure respectfully reports that HB 1026, 1027, 1042,
4 and 1043 were delivered to his Excellency, the Governor, for his approval at 9:25 a.m.,
5 February 6, 2013.

6 Also MR. SPEAKER:

7 The Committee on Legislative Procedure respectfully reports that the Office of Engrossing
8 and Enrolling has carefully compared HB 1024 and 1025 and finds the same correctly enrolled.

9 Respectfully submitted,
10 Brian G. Gosch, Chair

11 **SIGNING OF BILLS**

12 The Speaker publicly read the title to

13 HB 1024: FOR AN ACT ENTITLED, An Act to provide for the addition of certain
14 employees of the municipality of Sioux Falls to the South Dakota Retirement System.

15 HB 1025: FOR AN ACT ENTITLED, An Act to revise certain actuarial and reporting
16 requirements relating to the South Dakota Retirement System.

17 And signed the same in the presence of the House.

18 **COMMEMORATIONS**

19 HC 1015 Introduced by: Representatives Duvall, Bartling, Cammack, Campbell, Erickson,
20 Hawks, Hickey, Hoffman, Kirschman, Miller, Munsterman, Nelson, Olson (Betty), Peterson,
21 Qualm, Rounds, Schoenfish, Schrempp, Solum, Steele, Verchio, and Werner and Senators
22 Monroe, Begalka, Bradford, Ewing, Frerichs, Hunhoff (Jean), Johnston, Kirkeby, Krebs,
23 Lederman, Lucas, Maher, Rave, Rhoden, Soholt, Tidemann, Tieszen, Van Gerpen, Vehle, and
24 Welke

25 A LEGISLATIVE COMMEMORATION, Honoring the Pierre Junior Shooters BB Gun Team
26 as National BB Gun Champions.

27 WHEREAS, the Pierre Junior Shooters BB Gun Team participated in the 47th Daisy
28 National BB Gun Championship Match in Rogers, Arkansas, on July 2-3, 2012; and

WHEREAS, the Pierre Junior Shooters BB Gun Team competed against fifty-two other teams and captured the National Championship with a total score of 2,397 out of a possible 2,500 points; and

WHEREAS, this team also shot a new national record team score of 1,907 out of a possible 2,000; and

WHEREAS, the Pierre Junior Shooters BB Gun Team has brought to South Dakota its second consecutive national championship, as well as the fifth in the last nine years; and

WHEREAS, this team was under the guidance of coaches Gene Garber and John Forman; and

WHEREAS, the members of the team are Chancey Feller, Ryan Habeck, Lucas Henry, Cassandra Ryckman, and Samuel Ryckman, and team alternates are Jonalyn Beastrom and Adam Forman; and

WHEREAS, the team members and coaches exhibited consistency, determination, knowledge, and sportsmanship throughout the season:

NOW, THEREFORE, BE IT COMMEMORATED, by the Eighty-Eighth Legislature of the State of South Dakota, that the Pierre Junior Shooters BB Gun Team be honored and recognized for their excellent marksmanship and score in winning the 47th Daisy National BB Gun Championship.

HC 1016 Introduced by: Representatives Bolin, Cammack, Campbell, Carson, Craig, Dryden, Ecklund, Erickson, Greenfield, Haggard (Don), Hawley, Heinemann (Leslie), Hickey, Johns, Kaiser, Kopp, Magstadt, May, Mickelson, Miller, Nelson, Olson (Betty), Otten (Herman), Rasmussen, Romkema, Rozum, Russell, Schaefer, Schoenfish, Stevens, Tulson, Westra, and Wismer and Senator Lederman

A LEGISLATIVE COMMEMORATION, Honoring George Zahn and his wife for their many years of public service to the municipality of Worthing.

WHEREAS, George Zahn is a lifelong resident of Lincoln County and the community of Worthing; and

WHEREAS, George Zahn served as mayor of Worthing from 1985 to 2012; and

WHEREAS, the municipality of Worthing moved from a Class 3 to a Class 2 municipality during Mayor Zahn's tenure; and

WHEREAS, during Mayor Zahn's tenure city infrastructure was improved and overhauled; and

WHEREAS, in 2001, Mayor Zahn oversaw a major overhaul of city government and the hiring of the first city administrator in 2009:

7 Arlene Kvislen, Chief Clerk